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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,256	07/30/2001	Wayne Lee Borgen	8200.495	8665

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EXAMINER

YEAGLEY, DANIEL S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/916,256

Applicant(s)

BORGES ET AL.

Examiner

Daniel Yeagley

Art Unit

3611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 15 September 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-8 and 10-18.

Claim(s) withdrawn from consideration: 9 and 19-21.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

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Continuation of 3. Applicant's reply has overcome the following rejection(s): claims 4, 10 - 18 and 22 rejected under 112 second paragraph are withdrawn, however claims 5 - 8, 11 and 12 are now rejected under 112 second paragraph because the amendment filed 8/7/03 has inadvertently caused claim 5, line 1 regarding the term "The double disconnect system" to now lack proper antecedent basis. Note that applicants' Appeal Brief filed 11/5/03 under the heading of Status of Amendment; page 5, indicated that a concurrent amendment had been filed with the Appeals Brief filed 11/5/03; amending claims 14 and 17, the examiner acknowledges the amendment filed on 2/23/04, paper number 13; as the concurrent amendment. Although, the claims as now read in view of the concurrent amendment and the after-final amendment filed on 8/7/03; paper number 8, to correct claims 4 - 8, 10 - 18 and 22 have corrected most of the 112 rejections. However, the amendment filed 8/7/03 has inadvertently caused claim 5, line 1 regarding the term "The double disconnect system" to now lack proper antecedent basis and hence is still rejected under 112, second paragraph which now further include a 112 rejection to claims 6 - 8, 11 and 12 as being dependent upon claim 5 and although applicant failed to respond to the lack of antecedent basis pertaining to claim 18 regarding "the splines; the 112 rejection to claim 18 is now withdrawn as clearly referring to the splines of the cited splined interconnection. Further, regarding the Notification of Non-Compliance pertaining to the defective Appeal Brief filed 11/5/03 which still stands because applicants' Appendix of Claims submitted with the Appeals Brief failed to reflect these changes made by the amendments filed 8/7/03 and 2/23/04 and further makes the Appeal Brief defective because under applicants' Arguments pertaining to the statement that there are no rejections under 112 second paragraph are erroneous and has erroneously cited a withdrawn claim 9 to the Grouping Of The Claims which stand and fall together and applicant has further failed to supply an argument to address claim 8 as required.

Continuation of 10. Other: Claims 1 - 8 and claims 10 - 18 as now amended, are rejected under 103a as being unpatentable over Balmforth in view Hunt as being obvious as stated in the final office action regarding the rejection of claim 1 in reference to Balmforth in further view of Hunt as rejected under 103a in reference to Hunt regarding the rejection of claim 22 which is now incorporated into independent claim 1, wherein Hunt clearly discloses an axle shaft 24 being axially slidable with respect to the differential assembly as broadly claimed by actuation of the clutch actuator 40 as shown in figure 1 of Hunt.